IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10904 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

ZAHUBUDDIN H KAZI - Petitioner(s)
Versus
COMMISSIONER OF POLICE & 3 - Respondent(s)

==========

Appearance :
MR YN OZA for Petitioner(s) : 1,
MR L B DABHI, LD. AGP for Respondent(s) : 1 - 4.

==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 20/02/2006

ORAL JUDGMENT

1. The petitioner has filed the present petition under Article 226 of the Constitution of India

praying for quashing and setting aside the order of suspension dated 03.09.1994 passed by the District Commissioner of Police (Admn.), Surat.

2. The petition was admitted and rule was issued. At the time of issuing rule, this Court has passed an order on 13.09.1994 granting interim relief and stayed the operation, implementation and execution of order of suspension dated 03.09.1994 and the petitioner's position as it was obtained prior to 02.09.1994 was ordered to be maintained. The court has also referred to and observed that the incident dated 24.08.1994 has nothing to do with the discharge of his duties in the service. The petitioner was facing the prosecution in a private dispute with the neighbor and that too is a case of mistaken identity, and the petitioner has been caught involved instead of petitioner's brother, according to the complainant's statement dated 27.08.1994. It is only because of the criminal case, the petitioner was put under suspension.

3. Mr.A.R.Kapadia for Mr.Y.N.Oza learned advocate

appearing for the petitioner has submitted that since the interim order of suspension was in-operative for the last about 12 years, and in view of passage of time, there should be no justification in permitting to operate the said order. In support of his submission he relied on the decision of this Court in Special Civil Application NO.8511 of 1992 dated 06.10.2000 and Special Civil Application No.5108 of 1987.

4. Considering the above facts and the decisions of this Court, the Court is of the view that the impugned order of suspension has remained inoperative for about 12 years. In view of passage of time, there shall be no justification in permitting to operate the impugned order after about 12 years. The petition, is therefore, allowed in terms of the order dated 13.09.1994. Rule is made absolute accordingly without any order as to costs.

(K.A.PUJ, J.)

amit